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United Nations

Report of the Committee on Enforced Disappearances

Eleventh session
(3-14 October 2016)

Twelfth session
(6-17 March 2017)

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Note

Symbols of United Nations documents are composed of letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Contents

Chapter		*Page*
I.	Organizational and other matters	1
	A. States parties to the Convention	1
	B. Meetings and sessions	1
	C. Membership and attendance	2
	D. Decisions of the Committee	2
	E. Adoption of the annual report	3
	F. Press releases	3
II.	Methods of work	4
III.	Relations with stakeholders	6
	A. Meeting with Member States	6
	B. Meeting with the Working Group on Enforced or Involuntary Disappearances	6
	C. Meeting with other United Nations human rights mechanisms and intergovernmental organizations	7
	D. Meeting with national human rights institutions	7
	E. Meeting with non-governmental organizations and civil society	7
	F. Videoconference with the Special Rapporteur of the International Law Commission on the topic of crimes against humanity	8
IV.	Consideration of reports submitted by States parties under article 29 of the Convention	9
V.	Adoption of the report on follow-up to concluding observations	10
VI.	Adoption of lists of issues	11
VII.	Exchanges with States parties	12
VIII.	Reprisals	13
IX.	Urgent action procedure under article 30 of the Convention	14
	A. Requests for urgent action received since the tenth session of the Committee	14
	B. Matters related to registration criteria and the scope of urgent actions	14
	C. The process after registration of urgent action requests: developments observed since the tenth session (up to 18 January 2017)	16
	D. Implementation of the Committee's recommendations	18
	E. Recurrent concerns highlighted in the urgent action requests registered	19
	F. Urgent actions discontinued, closed or kept open for the protection of persons to whom interim measures have been granted	20
X.	Communication procedure under article 31 of the Convention and follow-up to Views	22
XI.	Visits under article 33 of the Convention	23
XII.	Implementation of article 27 of the Convention	24
Annexes		
I.	Membership of the Committee on Enforced Disappearances and terms of office as at 17 March 2017	25
II	List of documents before the Committee at its eleventh and twelfth sessions	26

Chapter I
Organizational and other matters

A. States parties to the Convention

1. As at 17 March 2017, the closing date of the twelfth session of the Committee on Enforced Disappearances, there were 56 States parties and 96 signatory States to the International Convention for the Protection of All Persons from Enforced Disappearance, which was adopted by the General Assembly in its resolution 61/177 of 20 December 2006 and opened for signature and ratification on 6 February 2007. In accordance with its article 39 (1), the Convention entered into force on 23 December 2010.

2. The updated list of States parties to the Convention, as well as information on declarations made under articles 31 and 32 and reservations, is available from https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&clang=_en.

B. Meetings and sessions

3. The Committee held its eleventh session at the United Nations Office at Geneva from 3 to 14 October 2016. It held 20 plenary meetings. The provisional agenda (CED/C/11/1) was adopted by the Committee at its 177th meeting. The eleventh session of the Committee was opened by the United Nations Deputy High Commissioner for Human Rights.

4. In her opening statement, the Deputy High Commissioner welcomed the members of the Committee and thanked them for providing leadership in the fight against the most egregious human rights violation of enforced disappearance. She noted that it was one of the toughest areas of human rights work because it was the cruellest thing for people to have no closure and no possibility of understanding what had happened to their loved ones. Accordingly, the task of fighting that crime could not be overstated in terms of its importance. She stressed that while enforced disappearances continued to occur and thousands of people languished in grief, there was still no galvanization of the Member States for signing or ratifying the Convention. She stated the need for a strategic pathway in order to encourage support for the Convention and, most importantly, adherence to its obligations, including reporting by the State parties.

5. The Committee held its twelfth session at the United Nations Office at Geneva from 6 to 17 March 2017. It held 20 plenary meetings. The provisional agenda (CED/C/12/1) was adopted by the Committee at its 198th meeting. The twelfth session of the Committee was opened by the Chief of the Civil, Political, Economic, Social and Cultural Rights Section, Human Rights Treaties Division. The Chair of the Committee, Santiago Corcuera Cabezut, also delivered a statement.

6. In their opening statements, the Chief of the Civil, Political, Economic, Social and Cultural Rights Section and the Chair of the Committee each noted the positive outcome of the first session of the Conference of the States Parties to the International Convention for the Protection of All Persons from Enforced Disappearance, at which the Conference evaluated the work of the Committee and confirmed it as the monitoring body of the Convention. A total of 51 States parties were present at the session; 22 of them took the floor, as did representatives of the Working Group on Enforced or Involuntary Disappearances, the International Committee of the Red Cross, the Global Alliance of National Human Rights Institutions and civil society. All expressed praise for the efficiency of the Committee, and some States parties offered constructive criticism.

7. Both speakers recalled the commemoration of the tenth anniversary of the Convention at a high-level plenary meeting of the General Assembly held in New York on 17 February 2017. In a video message, the United Nations High Commissioner for Human Rights expressed his firm belief that the work of the Committee had had a significant

preventive effect. Notwithstanding, the practice of enforced disappearance was not decreasing, but it was morphing. Against that sombre background, the High Commissioner called on all States parties to recognize the contemporary value of the goals and objectives of the Convention and set the bold goal of doubling ratifications of the Convention in the next five years. The call was promptly seized by ministers of Argentina and France and by many other dignitaries present in the room.

8. The Chief of the Civil, Political, Economic, Social and Cultural Rights Section concluded by bidding farewell and paying tribute to those members who would be leaving the Committee at the end of June 2017: Mohammed Al-Obaidi, Luciano Hazan, Juan José López Ortega and Kimio Yakushiji. On behalf of the Secretariat, he thanked them for their contribution and wished them luck in their new pursuits.

9. A list of the documents before the Committee at its eleventh and twelfth sessions is contained in annex II.

C. Membership and attendance

10. The Committee was established in accordance with article 26 (1) of the Convention. Its first 10 members were elected by the Conference of the States Parties on 31 May 2011.

11. A list of the current members of the Committee, indicating the duration of their terms of office, is contained in annex I.

12. At its eleventh session, the Committee elected Mr. Corcuera Cabezut as Chair of the Committee.

13. All members attended the eleventh and twelfth sessions of the Committee. Suela Janina did not attend the meetings of the eleventh session held on Wednesday, 5 October 2016.

D. Decisions of the Committee

14. At its eleventh session, the Committee decided, inter alia:

(a) To elect by consensus the following members of its Bureau, with due regard to equitable geographical representation:

- Chair: Mr. Corcuera Cabezut (Mexico);
- Vice-Chairs: Rainer Huhle (Germany), Ms. Janina (Albania) and Mr. Yakushiji (Japan);
- Rapporteur: Mr. López Ortega (Spain) (decision 11/I);

(b) To appoint members to the functions of the rapporteurs on urgent action, the rapporteur on intimidation and reprisal, the rapporteurs on communications and follow-up to Views, and the rapporteurs on the report on follow-up to concluding observations (decision 11/II);

(c) To establish a working group charged with drafting the methodology for the report on follow-up to concluding observations and the modalities for implementing article 29 of the Convention (decision 11/III);

(d) To establish a working group charged with drafting a concept note on investigation of disappearances and the search of disappeared persons in accordance with the Convention and the Committee's jurisprudence (decision 11/IV);

(e) To appoint a member to prepare a draft statement on the investigation of disappearances and the search of disappeared persons in accordance with the Convention, including reference to the applicability of article 30 to cases covered under articles 2 and 3 of the Convention (definition of enforced disappearance and non-State actors) (decision 11/V);

(f) To keep in mind the Sustainable Development Goals, in particular Goal 16, while carrying out its activities (decision 11/VI);

(g) To appoint Mr. Yakushiji to represent the Committee at the consultation on migration organized by Working Group on Enforced or Involuntary Disappearances in the Republic of Korea (decision 11/VII);

(h) To send reminders to those States parties that have not submitted their reports on time (decision 11/VIII);

(i) To adopt the informal report on its eleventh session (decision 11/IX);

(j) To adopt the list of items to be included in the provisional agenda of its twelfth session (decision 11/X).

15. At its twelfth session, the Committee decided, inter alia:

(a) To reiterate the previous requests referred to in decisions 4/VIII, 5/VII and 6/VI, and request Mexico to give its consent for the Committee to visit the country in 2017 (decision 12/I);

(b) To hold, at its thirteenth session, a thematic discussion on the obligation under the Convention to search for and locate disappeared persons (decision 12/II);

(c) To adopt its annual report to the General Assembly for submission at the seventy-second session of the Assembly (decision 12/III);

(d) To adopt the informal report on its twelfth session (decision 12/IV);

(e) To adopt the list of items to be included in the provisional agenda of its thirteenth session (decision 12/V).

E. Adoption of the annual report

16. At the end of its twelfth session, the Committee adopted, in compliance with article 36 (1) of the Convention, its sixth report to the General Assembly, on its eleventh and twelfth sessions.

F. Press releases

17. On 26 August 2016, on the occasion of the International Day of the Victims of Enforced Disappearances, the Committee issued a press release jointly with the Working Group on Enforced or Involuntary Disappearances. The two bodies expressed their concern at allegations of intimidation and reprisals against victims of enforced disappearance and those who reported their cases. They called on States worldwide to prevent and eradicate enforced disappearances, including short-term enforced disappearances, and to ensure that relatives of persons deprived of their liberty are informed accurately and promptly of their detention.[1]

[1] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20416&LangID=E#sthash.qQEsbAUj.dpuf.

Chapter II
Methods of work

18. During its eleventh and twelfth sessions, the Committee used English, French and Spanish as working languages and Arabic when necessary.

19. During its eleventh session, the Committee discussed the following matters:

(a) Methods of work related to articles 30-34 of the Convention;

(b) Strategy to increase ratification of the Convention;

(c) Strategy to elicit the submission of overdue reports;

(d) Other matters.

20. During its twelfth session, the Committee discussed the following matters:

(a) Methods of work related to articles 29-35 of the Convention;

(b) Strategy to increase ratification of the Convention;

(c) Strategy to elicit the submission of overdue reports;

(d) Other matters.

21. The Committee took note of the comments on the methods of work received from Colombia, from Spain and from Belgium and the Netherlands on the occasion of the first session of the Conference of States Parties, which took place on 19 December 2016. The Conference confirmed the Committee as the monitoring body of the International Convention for the Protection of All Persons from Enforced Disappearance.

22. At its twelfth session, the Committee discussed comments on the methods of work under the respective item of the provisional agenda.

Methods of work related to article 29 (1) and (4) of the Convention

23. The Committee considered its working methods regarding the consideration of reports submitted by States parties in compliance with article 29 (1) of the Convention.

24. The Committee clarified that its current practice was and would continue to be to request, in its concluding observations, States parties to inform the Committee of the implementation given to three recommendations contained in the concluding observations that were considered priorities by the Committee. The choice of the three recommendations reflected not only their importance but also the feasibility by the State party to implement them within one year. The evaluation of information submitted by the States parties was made public in the report on the follow-up to concluding observations. Once a State party had reported on the implementation, within one year, of the three priority recommendations, the Committee remained seized of the implementation of the remaining recommendations addressed to the State party. For that reason the Committee requested States parties to provide it, within the following five years, with information on the implementation of the remaining recommendations.

25. In specific circumstances, when the situation in a State party was a matter of concern, the Committee might ask the State party concerned to report within one year on the implementation of the three priority recommendations identified in the concluding observations and within the following two years on the implementation of the remaining recommendations. In such a case the evaluation of the report, which the State party concerned submitted in compliance with article 29 (1) of the Convention, spanned a period of three years.

26. The Committee thus clarified that the complete evaluation of the reports that States parties were to submit in compliance with article 29 (1) of the Convention spanned over a period of three or six years, depending on the situation of the State party concerned.

27. The Committee might at any time, if it deemed it appropriate, request States parties to provide additional information on the implementation of the Convention in accordance with article 29 (4).

Methods of work related to article 30

28. The Committee established that in cases where interim measures to protect persons concerned had been granted in the context of urgent action procedures, it might be necessary to keep the procedure open while the risk remained in relation to those persons under protection, in line with the spirit of the Convention and the Guidelines against Intimidation or Reprisals ("San José Guidelines").

Interpretation of article 35 of the Convention

29. With respect to the interpretation of article 35 of the Convention, the Committee reiterated the position that it had expressed in its statement on the *ratione temporis* element in the review of reports submitted by States parties, adopted at its fifth session (see A/69/56, annex V).

Strategy to elicit the submission of overdue reports

30. The Committee remained deeply concerned by the number of overdue State party reports. In particular, it noted that the reports of some States, among the first to have ratified the Convention, had been overdue for the past five years.

31. The Committee discussed a strategy to elicit the submission of overdue reports. It considered the possibility of examining States parties in the absence of a report in cases where the report had been overdue for more than five years. A decision in that regard would be taken at the thirteenth session in September 2017.

Chapter III
Relations with stakeholders

A. Meeting with Member States

32. On 7 October 2016, the Committee held a public meeting with Member States that was attended by 23 States: Algeria, Argentina, Bahrain, Belgium, Bosnia and Herzegovina, Brazil, Burundi, Croatia, Ecuador, Egypt, France, Germany, Iraq, Japan, Libya, Mexico, Montenegro, Peru, Qatar, Serbia, Turkey, Uruguay and Venezuela (Bolivarian Republic of). Representatives of Japan, Argentina, France, Ecuador, Uruguay, Mexico and Bosnia and Herzegovina took the floor and confirmed their commitment to the work of the Committee and to the Committee's campaign for ratification of the Convention. The representatives of States parties present reiterated the support of their States for the continuation of the work of the Committee, which would be decided upon during the first session of the Conference of States Parties. The main points discussed by the participants were the importance of general comments in the context of the interpretation of the Convention at a domestic level, the complementarity of and cooperation between the Committee and the Working Group on Enforced or Involuntary Disappearances, the proposal for a fifth week of meeting time, and the need to promote the ratification of the Convention, in particular in the Asian and Arab regions. The Committee invited States parties to reflect on the issues impeding universal ratification and expressed its willingness to cooperate with State parties in that area.

33. On 9 March 2017, the Committee held a public meeting with Member States that was attended by 12 States: Argentina, Brazil, Iraq, Japan, Libya, Mexico, Panama, Peru, Switzerland, the former Yugoslav Republic of Macedonia, Togo and Ukraine. Argentina, Brazil, Iraq, Japan, Libya, Mexico, Peru, Switzerland and Togo took the floor and confirmed their commitment to the work of the Committee and to the Committee's campaign for ratification of the Convention. The main points discussed by the participants were the strategy for increasing the ratification of the Convention, for example, through recommendations in the context of the universal periodic review. Responding to a question raised by a Committee member aimed at identifying the main reasons for not ratifying the Convention, some States cited reporting fatigue, problems relating to human and financial resources and the regionalization of the Convention. Some States suggested that one reason for non-ratification might be the system of negative incentives that overexposed States that ratified the Convention and made the declarations under articles 31 and 32, in comparison with those that did not. The Committee thanked the States for their positive remarks on and support shown for the first session of the Conference of the States Parties, as well for the constructive criticism provided.

B. Meeting with the Working Group on Enforced or Involuntary Disappearances

34. On 5 October 2016, the Committee held its fifth annual meeting with the Working Group on Enforced or Involuntary Disappearances, through a videoconference with the Chair of the Working Group, Houria Es-Slami. Ms. Es-Slami stated that one main concern of the Working Group was the increase in the number of requests for urgent actions concerning so-called short-term enforced disappearances. She informed the Committee that the Working Group was about to organize a consultation on migration and enforced disappearance. The Committee and the Working Group identified common areas of thematic interest: short-term disappearances, non-State actors and attacks and reprisals against human rights defenders. Ms. Es-Slami reaffirmed the full support of the Working Group for the continuation of the work of the Committee, which would be decided upon at the first session of the Conference of State parties, and stressed the complementarity between the two bodies.

C. Meeting with other United Nations human rights mechanisms and intergovernmental organizations

35. In a meeting open to all United Nations agencies, the representative of the United Nations Development Programme (UNDP) noted that UNDP had neither a normative nor a general mandate on human rights and that its main function was to support capacity-building. She highlighted the tripartite partnership among UNDP, the Global Alliance of National Human Rights Institutions and the Office of the United Nations High Commissioner for Human Rights at the regional level.

D. Meeting with national human rights institutions

36. On 7 October 2016, the Committee held a public meeting with the Global Alliance of National Human Rights Institutions. The representative of the Global Alliance underlined the importance of the close cooperation between the Committee and national human rights institutions and the common priorities of the universal ratification of the Convention and State parties' compliance with their reporting obligations under article 29 (1). She briefed the Committee on the various activities conducted by the Global Alliance in that regard, including the hosting of an annual training for staff of national human rights institutions from all regions on the international human rights mechanisms and the roles of national human rights institutions.

E. Meeting with non-governmental organizations and civil society

37. On 7 October 2016, the Committee held a public meeting with non-governmental organizations and civil society. Adrien Zoller spoke on behalf of Geneva for Human Rights and congratulated the Committee for its professionalism. He stated that the establishment of a group of experts on the issue of enforced disappearance and of the urgent action procedure was in line with the need to provide effective procedures and remedies for victims. He stressed that there was no duplication between the work of the Committee and that of the Working Group on Enforced or Involuntary Disappearances. He acknowledged that it was high time for the Secretary-General to convene a session of the Conference of the States Parties to support the Committee. Finally, he noted that the urgent action procedure enabled the Committee to take into consideration the relatives and the loved ones of the disappeared.

38. On 9 March 2017, the Committee held another public meeting with non-governmental organizations and civil society. The spokesperson for Geneva for Human Rights congratulated the Committee on the positive outcome of the first session of the Conference of the States Parties. He highlighted that the crime of enforced disappearance had always been a priority for the organization, as demonstrated by, inter alia, its participation in the process of drafting the Convention and in all sessions held by the Committee. Geneva for Human Rights had also contributed to the preparation of the first session of the Conference of the States Parties by holding a preparatory meeting for non-governmental organizations and disseminating a memorandum detailing the work carried out by the Committee since its establishment. The spokesperson noted the importance of the high-level plenary meeting of the General Assembly held to commemorate the tenth anniversary of the Convention and the positive responses by States to the ambitious objective, launched by the United Nations High Commissioner for Human Rights, to double ratifications of the Convention in the next five years. The representative stressed that the objective could be reached only through a multi-actor strategy and an urgent allocation of resources to the Committee.

F. Videoconference with the Special Rapporteur of the International Law Commission on the topic of crimes against humanity

39. On 11 October 2016, the Committee held a public meeting with the Special Rapporteur of the International Law Commission on the topic of crimes against humanity regarding the definition of enforced disappearance in the draft convention on crimes against humanity. The Special Rapporteur introduced the project on the draft convention and its timeline. He stated that the focus of the project was to promote inter-State cooperation and development and the adoption of national laws and jurisdiction on crimes against humanity. He explained that the International Law Commission had decided to use in the draft convention (art. 3) the definition of enforced disappearance contained in the Rome Statute of the International Criminal Court, to avoid possible adverse effects. A paragraph (para. 4) had been included in article 3 stating that the definition used in the draft convention was without prejudice to any other broader definition. The Committee voiced various concerns regarding the dilution of the definition of enforced disappearance, the precision required for a definition pertaining to international criminal law and the implementation of the draft convention. Committee member Emmanuel Decaux stressed that the second report of the Special Rapporteur had not taken into account the Committee's legal interpretation of the Convention that had been made clear in the substantive statement on enforced disappearance and military jurisdiction adopted by the Committee at its eighth session.

40. Mr. Corcuera Cabezut, referring to the general comment of the Working Group on Enforced or Involuntary Disappearances on enforced disappearance as a crime against humanity, noted that the divergences between the definition under international criminal law and the definition under international human rights law related to the perpetrator, mens rea and the temporal element. He suggested a two-fold approach: first, to use a definition that encompassed cases in which enforced disappearance constituted a crime against humanity as well as those in which it did not and, secondly, to use the definition of the crime as stated in the International Convention for the Protection of All Persons from Enforced Disappearance as it was more conducive to the protection of the victims because neither mens rea nor the temporal element were considered constitutive elements.

41. The Special Rapporteur stressed that the goal of the draft convention was to harness national laws and jurisdiction to combat impunity. He noted that the definition used in the draft convention did allow broader protection regimes and at the same time ensured that States could adhere to such a definition without difficulties. He pointed out that the question of military jurisdiction was not dealt with in the draft articles or the commentaries. He raised the question of the value of having a separate committee as the monitoring body of the draft convention.

42. The Committee expressed its view that article 3 (4) of the draft convention could be subject to interpretation and suggested that the Special Rapporteur take article 37 of the Convention into consideration.

Chapter IV
Consideration of reports submitted by States parties under article 29 of the Convention

43. At its eleventh session, the Committee considered the reports of Bosnia and Herzegovina (CED/C/BIH/1) and Colombia (CED/C/COL/1) and adopted concluding observations on those reports (CED/C/BIH/CO/1 and CED/C/COL/CO/1).

44. At its twelfth session, the Committee considered the reports of Cuba (CED/C/CUB/1), Senegal (CED/C/SEN/1) and Ecuador (CED/C/ECU/1) and adopted concluding observations on those reports (CED/C/CUB/CO/1, CED/C/SEN/CO/1 and CED/C/ECU/CO/1).

Chapter V
Adoption of the report on follow-up to concluding observations

45. At its eleventh session, the Committee adopted its report on follow-up to concluding observations (CED/C/11/2), which reflected the information received by the Committee between its ninth and eleventh sessions concerning the status of implementation of its concluding observations on Armenia (CED/C/ARM/CO/1/Add.1), Belgium (CED/C/BEL/CO/1/Add.1), Mexico (CED/C/MEX/CO/1/Add.1), the Netherlands (CED/C/NLD/CO/1/Add.1), Paraguay (CED/C/PRY/CO/1/Add.1) and Serbia (CED/C/SRB/CO/1/Add.1) and the assessments and decisions it adopted at its eleventh session.

Chapter VI
Adoption of lists of issues

46. At its eleventh session, the Committee adopted the lists of issues on Cuba (CED/C/CUB/Q/1), Ecuador (CED/C/ECU/Q/1) and Senegal (CED/C/SEN/Q/1).

47. At its twelfth session, the Committee adopted the lists of issues on Lithuania (CED/C/LTU/Q/1) and Gabon (CED/C/GAB/Q/1).

Chapter VII
Exchanges with States parties

48. At its eleventh session, the Committee decided to send a reminder to those States that had not presented their reports within two years of the entry into force of the Convention. On 17 January 2017, a first reminder was sent to Lesotho and Togo. A second reminder was sent to Cambodia and Morocco. A third reminder was sent to Mauritania. A fourth reminder was sent to Costa Rica. A fifth reminder was sent to Bolivia (Plurinational State of), Brazil, Chile, Mali, Nigeria, Panama and Zambia.

49. At its twelfth session, the Committee expressed its deep concern at the number of reports of States parties that were overdue and had not been submitted within two years of ratification in accordance with article 29 of the Convention. The Committee noted that the reports of Bolivia (Plurinational State of), Mali, Nigeria, Chile and Brazil had not yet been submitted, notwithstanding the fact that those States parties had been among the first to ratify the Convention. The Committee also noted that the reports of Zambia, Panama, Costa Rica, Mauritania, Samoa, Morocco and Cambodia were significantly overdue. The Committee reiterated that its functioning depended on the timely submission of reports and urged States parties to respect their legal obligation to submit reports on time. The Committee considered remedial measures (see paras. 30-31 above).

Chapter VIII
Reprisals

50. The Committee noted with satisfaction that during the reporting period it had not received any allegations from individuals of acts of intimidation or reprisal for seeking to cooperate or cooperating with the Committee.

Chapter IX
Urgent action procedure under article 30 of the Convention

51. Rules 57 and 58 of the Committee's rules of procedure (CED/C/1) establish that all requests for urgent action submitted for its consideration under article 30 of the Convention should be brought to the attention of the Committee. The full text of any such request may be made available in the language of submission to any member of the Committee at the request of that member. The present report summarizes the main issues addressed in relation to requests for urgent action received by the Committee under article 30 of the Convention and the decisions taken in that regard between the tenth and twelfth sessions of the Committee.

A. Requests for urgent action received since the tenth session of the Committee

52. From 2012 to 18 January 2017 (the date of the report adopted by the Committee at its twelfth session), the Committee registered a total of 359 requests for urgent action, with the following breakdown by year and country:

Table 1
Urgent actions registered, by year and by country

Year	*Argentina*	*Brazil*	*Cambodia*	*Colombia*	*Iraq*	*Mexico*	*Morocco*	*Total*
2012	-	-	-	-	-	5	-	5
2013	-	-	-	1	-	5[a]	-	6
2014	-	1	1	1	5	43	-	51
2015	-	-	-	3	42	166	-	211
2016	-	-	-	4	21	58	1	68
2017[b]	1	-	-	-	-	-	-	1
Total	**1**	**1**	**1**	**9**	**68**	**277**	**1**	**359**

[a] Urgent action No. 9/2013 refers to two persons. It is therefore counted as two urgent actions.
[b] As of 18 January 2017.

B. Matters related to registration criteria and the scope of urgent actions

1. Requests that did not meet the registration criteria

53. Most of the requests for urgent action submitted since the tenth session met the admissibility criteria when first submitted. However, it was felt that eight did not meet these criteria and could not be registered, for the following reasons: they related to events that occurred prior to the entry into force of the Convention, or that occurred in a State that was not party to the Convention; or the disappeared person was found before all the information required for registration had been sent to the Committee.

54. In each of these cases, a letter was sent to the authors explaining the reasons why their request could not be registered. All cases related to events in a State not party to the Convention were forwarded to the secretariat of the Working Group on Enforced or Involuntary Disappearances.

2. Requests for urgent action giving no information regarding potential perpetrators or alleging the possible involvement of non-State actors

55. In most cases, the identity of the perpetrators of the disappearance referred to remains unknown. The authors put forward certain theories, mainly based on statements by

witnesses and on the context in which the disappearances occurred. In some cases, however, the requests make a reference to the possible involvement of non-State actors.

56. The main challenge occurs when the requests refer to the possible involvement of non-State actors without any kind of support or acquiescence. The following examples may be mentioned:

(a) The authors of one request put forward a number of theories, including the possibility that the victim's disappearance occurred as a result of a personal issue with her ex-boyfriend. In another case, the authors referred to a fight between the alleged victim and another individual over a plot of land. In both cases, however, the authors emphasized that the allegations were just theories and that, "in the context", the possible involvement of agents of the State could not be ruled out;

(b) In another case, the authors did not put forward any theory explicitly referring to the involvement of the State party, but it is clear from the request for urgent action that the disappeared persons are social leaders in conflict with State actors.

57. In these cases, the following decisions were taken:

(a) Considering that the possible participation of agents of the State, through action, support or acquiescence, could not be confirmed until the investigation had been carried out, the two aforementioned requests for urgent action were registered and the State party was asked for information regarding the actions taken to locate the victims;

(b) In the case of the social leaders, the Committee considered that even though it was not in a position to put forward a hypothesis regarding the possible involvement of agents of the State in the events in question, it was necessary to register the petition, making reference to the victims' background and their most recent meetings with State officials.

58. In the light of the above, the Committee decided:

(a) To include two new criteria for the registration of urgent actions under article 30 of the Convention. In cases where it is not clear who the perpetrators of a disappearance are, an urgent action will be registered when:

(i) The possible involvement of non-State actors — without support or acquiescence — is a mere theory that can neither be confirmed nor dismissed without a thorough investigation by the competent authorities;

(ii) The disappeared person has experienced conflict or tension or has a relationship with State actors which, considering the context of the events, would suggest that an enforced disappearance is a possibility;

(b) In either case, if the information provided by the parties in the course of the urgent action procedure shows that there is no involvement of agents of the State, including through support or acquiescence, the Committee will close the urgent action.

3. Urgent action requests registered following clarification of the steps taken to report the events to the competent national authorities

59. In accordance with article 30 (2) (c) of the Convention, the case should already have been "duly presented to the competent bodies of the State party concerned, such as those authorized to undertake investigations, where such a possibility exists". In the great majority of cases, the authors of requests for urgent action provide information on the actions taken to bring the disappearance concerned to the notice of the competent national authorities. It is considered that a request for urgent action may be registered as soon as a disappearance has been brought to the notice of one of the competent authorities.

60. In cases in which the disappearance has not been brought to the attention of the competent authorities, the rapporteurs consider whether the information provided allows them to conclude that registration is not possible, taking into account the following criteria: the existence of national institutions that are competent to investigate cases of enforced disappearance; and the existence of risk factors associated with the submission of a complaint to one of these institutions.

4. Requests for urgent action registered after the perpetrators have been identified: the scope of urgent actions with regard to investigations into crimes and the identification of perpetrators

61. One of the requests for urgent action was submitted in a somewhat different context to that of most other requests registered. In this case the victim disappeared in November 2013. Family members submitted a complaint to the competent authorities. As a result of the investigations conducted, three police officers were tried and convicted for the disappearance. However, the victim's whereabouts remain unknown. In addition, at the time that the request was submitted, the authors expressed their concern that, according to the information available, another police officer who had potentially been involved in the events was still at large. It is also possible that the three police officers detained may soon be released, even though the fate and whereabouts of the victim have not been clarified.

62. Action taken: in this case, the facts allowed the Committee to make a clear distinction between the investigation into the criminal responsibility of the perpetrators and the search for the disappeared person, two issues about which there is often confusion on the part of the complainants or the State party concerned. In the notice of registration of the urgent action, the Committee requested the State party to:

(a) Adopt all measures necessary in order to search for and locate the victim;

(b) Ensure that any decisions taken with regard to the case do not foster impunity or result in the loss of evidence needed to locate the victim;

(c) Take all steps necessary to find the fourth police officer allegedly involved in the events and to execute the arrest warrant issued against him.

63. In conclusion, in the context of urgent actions, the Committee highlights the importance of limiting its role to the issues that fall within its competence under article 30 of the Convention, thereby excluding consideration of the question of criminal responsibility. However, the Committee considers that references to investigations into crimes and their perpetrators are usually relevant, since such investigations reveal evidence that is necessary to trace the victims.

C. The process after registration of urgent action requests: developments observed since the tenth session (up to 18 January 2017)

1. Interaction with States parties

64. The Committee maintains contact with States parties through their respective permanent missions, primarily by means of notes verbales. In the event of an emergency or the need to clarify a situation, meetings between representatives of the permanent mission and the rapporteurs or secretariat of the Committee are organized.

65. In several requests for urgent action, the authors expressed concern that the authorities in charge of the search and investigation were not aware of the urgent actions registered or of the Committee's recommendations. Pursuant to a decision taken by the Committee in a plenary meeting at its eleventh session, the secretariat contacted the permanent missions of the two States parties with respect to which the Committee had registered the largest number of urgent actions (Mexico and Iraq), with a view to discussing options in that regard. To date, such meetings have not resulted in the establishment of a direct channel of communication with the relevant authorities in the States parties.

2. Replies of the States parties

66. States parties continue to respond to the great majority of urgent actions registered. When they do not, they are sent reminders.

67. The main difficulties encountered concern the content of the replies, which do not always correspond to the Committee's questions and recommendations. In several cases, however, the State party's observations have enabled the authors to obtain access to key information to which they did not previously have access.

68. When States fail to respond to requests for urgent action or the Committee's follow-up notes, they are sent reminders. When three reminders have been sent but remain unanswered, the following rule applies:

(a) In cases where the failure to respond concerns the first urgent action registered in relation to events that took place in the State party, a meeting of the rapporteurs (or the secretariat, acting on their behalf) and the permanent mission is convened;

(b) In cases where the failure to respond relates to a registered urgent action concerning events that took place in a State party in relation to which other urgent actions have already been registered, a meeting of the rapporteurs (or the secretariat, acting on their behalf) and the permanent mission will be convened only if there are particular circumstances that suggest that such a meeting might be useful;

(c) In all other cases, a fourth reminder is sent. In this letter, the Committee refers to the three notes that were sent previously and reminds the State party of its treaty obligation to submit information within the time limit set by the Committee (Convention, art. 30 (2) and (3)). The State party is also informed that if the Committee does not receive a response within the time limit indicated, it may decide to make this information public in its sessional report on urgent actions and in its next report to the General Assembly. This decision is taken at the Committee's next session;

(d) Whatever the decision taken with regard to the inclusion of information on the lack of response by the State party, the frequency of reminders sent will be limited (to only one every six months) and the Committee will review the situation at every session to see if a response has been provided.

69. In the present reporting period, a fourth reminder was sent in respect of 29 urgent actions registered in relation to events that took place in Iraq and, in one case, in Cambodia. At its twelfth session, the Committee held a bilateral meeting with the Permanent Mission of Iraq to give the State party an opportunity to explain why it had not been in a position to respond to the Committee's notes. Once the Committee had clarified certain aspects of the urgent action procedure, the State party promised to send information in the weeks following the session. Responses were received in relation to most of the 29 urgent actions. The Committee is still awaiting some responses and will re-examine the situation at its forthcoming sessions. The Committee will adopt a decision with regard to Cambodia at its thirteenth session, following the expiry of the time limits set for the State party's response.

70. Decision of the Committee: as a matter of urgency, more opportunities must be made available for interacting with and training national authorities on the procedure and objectives of urgent actions, in collaboration with the field offices of the United Nations High Commissioner for Human Rights and the treaty body capacity-building programme, in order to raise awareness about the scope and objectives of the urgent action procedure.

3. Interaction with authors

71. The secretariat is in constant contact with the authors of urgent action requests, mainly by letter but also, more directly, by email and telephone.

72. In these exchanges, several authors highlighted the importance of the support of the Committee, which had proved to be a receptive listener after several unsuccessful attempts to contact the national authorities. However, the authors also expressed their concern at the extension of the time limits within which follow-up letters may be processed in view of the proliferation of urgent actions registered.

73. The authors also reveal their dismay at the lack of progress in the search for the disappeared persons and in the related investigations. Many ask the Committee for material and psychological support. In these cases, the Committee always takes the time to listen and respond to questions about procedures while specifying the limits of its mandate. The field office of the United Nations High Commissioner for Human Rights also receives visits from authors and responds to their concerns.

74. In the case of some of the urgent action requests that have been registered, the authors have not sent their comments on the State party's observations. This has prevented the Committee from moving forward with the requests. This occurs mainly in two situations:

(a) Situation 1: in 6 of the urgent action requests submitted by non-governmental organizations (NGOs), the NGO had difficulty maintaining contact with the relatives of the disappeared persons or did not have access to the case files. In these cases, the Committee sent reminders to the authors. In the case of two urgent actions, after a year without a response from the authors, the rapporteurs sent a follow-up note to the State party to request an update on the progress made in the search. A copy of the follow-up note was sent to the authors. The authors then resumed contact with the secretariat, informing it that the note had made it possible for them to resume contact with the authorities in charge of the investigation;

(b) Situation 2: the authors of requests have not responded because they are not in a position to follow up: they may not be able to write or it may be difficult for them to access the Internet. In these cases, other ways of obtaining access to the information have been found.

75. In the light of the above, the Committee decided to adopt a new rule of procedure for handling cases in which the authors do not respond to its notes:

(a) Three reminders are sent to the author;

(b) If the author has not replied within three months of the third reminder, the secretariat will attempt to locate the author through other means, and will inquire as to his or her reasons for not responding;

(c) If the author states that he or she is unable to respond in writing but has information to share with the Committee, the secretariat will attempt to obtain that information orally (e.g. by telephone) and will send a follow-up note to the State party;

(d) If, six months after the third reminder, the author cannot be located or has no information, the Committee will send a note to the State party on the basis of the information available and provide it with a new deadline for sending updated information.

D. Implementation of the Committee's recommendations

76. It is not possible to determine the precise extent to which the Committee's recommendations have been implemented. In general, people in touch with the Committee state that registering requests for urgent action has a positive impact on cases, highlighting concrete actions taken by the State party's authorities in the cases mentioned.

77. The Committee reiterates that requests for urgent action do not have as much impact as it would like because information on the requests does not reach the authorities in charge of the search and investigation:

(a) Action taken: the notes verbales sent to States parties included requests for the competent authorities to duly inform the authorities involved in the investigations of the urgent actions and the requests and recommendations sent to the State party, in accordance with article 30 (3) of the Convention;

(b) Plenary decision: to continue exploring, in conjunction with the permanent missions of the States parties, the possibility of establishing a direct channel of communication with the competent authorities of the State party that, in parallel with diplomatic channels, would facilitate the transmission of the Committee's observations and recommendations.

E. Recurrent concerns highlighted in the urgent action requests registered

78. The concerns expressed over the lack of action taken by the authorities in charge of searches and investigations fall primarily into five categories:

(a) Failure by the authorities to take action within the 72 hours following a disappearance: in more than 25 urgent action cases, the authors highlighted their concern at the authorities' refusal to take action in the 72 hours following the disappearance in question. In all the above-mentioned cases, the Committee highlighted its concern and asked the State party to take the necessary measures to ensure that all complaints of enforced disappearance were examined without delay by the authorities that receive them, in accordance with article 12 of the Convention;

(b) The absence of a search and investigation strategy in almost all the urgent actions registered: in these cases, the Committee reminds States parties of their treaty obligations under articles 12 and 24 of the Convention, on the assumption that the investigation of enforced disappearances may lead to information that is necessary in searching for and locating the victims;

(c) Failure to implement court decisions: such decisions have not been implemented in 12 urgent action cases, either because of a lack of resources or because the authorities may be directly involved in or linked to the events. In four of these cases, the authors reported the authorities' failure to act on court decisions several months after arrest warrants had been issued against the alleged perpetrators of the disappearances in question, despite the fact that the State agents concerned were present. In such cases, the notes sent to States parties remind them of their treaty obligations in this regard;

(d) Failure to conduct on-site investigations: this was mentioned in around 19 urgent actions, in which the authors highlighted that the authorities in charge of the investigation often limited their actions to sending unsuccessful requests for information to shelters, hospitals, other medical facilities, and detention centres. They also pointed out that, even when the requests for information contained instructions for conducting investigations through on-site visits, the instructions had been ignored. In these cases, the Committee recommended that the State party ensure that the competent authorities (i) made full use of their powers, including the adoption of urgent measures, to request the authorities concerned to provide all the requested information on the investigation or search for the missing persons, and (ii) took steps to carry out an exhaustive on-site investigation with a view to conducting an effective search, which should not consist solely in sending letters and should not be based solely on the information contained in the State party's records;

(e) The flawed use of available evidence: the authors expressed their frustration at the authorities' failure to use and comprehensively examine all of the available evidence. For instance, the authors complained of the limited use or flawed analysis of information acquired from telephone or email networks; partial searches of locations that could potentially contain relevant evidence; the lack of analysis of skeletal remains; and reluctance on the part of some authorities to interview identified witnesses. In these cases, the Committee analysed the information available and drew attention to the relevant concerns, inviting the authorities to undertake the necessary investigations.

79. Assignment of investigations to units that do not specialize in the investigation of enforced disappearance, such as units that specialize in investigating crimes committed by organized criminal gangs: in these cases, the Committee asked the State party to clarify the reasons for such assignments and requested information with a view to determining whether they would be detrimental to an investigation into an enforced disappearance or whether the above-mentioned units were competent to investigate leads pointing to a possible enforced disappearance within the meaning of the Convention.

80. Lack of inter-agency coordination between the authorities responsible for cases: in federal States, there is also a lack of coordination between state and federal authorities, which clearly affects the effectiveness of searches and investigations. In these cases, the

Committee reminded States parties of the need to ensure inter-agency coordination among all the authorities involved in the search and investigation process.

81. The role of the military criminal courts in urgent action cases in which members of the military authorities were involved as potential perpetrators or victims: the authors consistently highlighted their concerns about the role of the military criminal courts in the investigation of their cases. In these cases, the Committee reminded the State party in question that it should take all measures necessary to guarantee in practice that such cases are tried, from the outset, by the ordinary courts. Where relevant, the Committee requested the State party to ensure that the military authorities cooperated with civilian authorities, which must be in charge of the investigation and its coordination. This clarification is made with a view to preventing a situation in which, under the pretext of prohibiting the intervention of military courts, the military authorities might refuse to provide assistance or specific information under their control.

82. The need to further develop international legal assistance in the search for missing persons: in 10 urgent actions in which it was assumed that people had disappeared in a country other than the one in which they had last been seen, the authors stressed their concern over the ineffective cooperation between the States concerned. In these cases, the Committee requested the State party to expedite the provision of the required international legal assistance, in accordance with article 14 of the Convention.

83. Lack of access for family members and relatives to information on the search for the disappeared person and their participation in it: difficulties in this regard have been identified in almost all the urgent action cases. In these cases, the Committee reminded States parties of their treaty obligations, under articles 12 and 24 of the Convention, (a) to ensure that the families and relatives of disappeared persons have access to regular updates on the progress of the search and investigation process, including meetings with the authorities in charge of the cases, whenever they deem appropriate; and (b) to allow and support their effective participation in the search process.

84. Request for interim measures of protection: in the majority of requests for urgent action, the authors sought the adoption of interim measures to protect the family and relatives against threats and to allow them to continue searching for and locating the disappeared person. They make frequent references to threatening acts carried out by the State authorities, such as patrols or the presence of officers around their homes, threatening telephone calls or letters, pressure on their children and direct threats not to report events or to abandon their search for the disappeared person. In some cases, the authors also reported physical threats to their representatives and the death of individuals involved in the search for the disappeared persons. The requested interim measures of protection were granted whenever the information provided showed that persons faced a risk of irreparable harm to their life or their physical and psychological integrity. In such cases, the State concerned was requested to listen to the needs and views of the individual to be protected prior to implementing any interim measures.

F. Urgent actions discontinued, closed or kept open for the protection of persons to whom interim measures have been granted

85. In accordance with the criteria adopted in plenary by the Committee at its eighth session:

(a) An urgent action is discontinued when the disappeared person has been located but is still detained. This is because the person in question is particularly vulnerable to being subjected to a further enforced disappearance and to being placed outside the protection of the law;

(b) An urgent action is closed when the disappeared person has been found to be at liberty, has been located and released, or has been found dead;

(c) An urgent action is kept open when the disappeared person has been located but the persons to whom interim measures have been granted in the context of the urgent

action are still under threat. In such cases, the actions taken by the Committee are limited to following up on the interim measures.

86. At the time of writing, the Committee has discontinued 2 urgent actions related to disappeared persons who were located but remain in detention and has closed 10 urgent actions related to disappeared persons who were found alive and released (eight cases) or found dead (two cases).

87. The Committee has also considered it necessary to keep three urgent actions open even though the disappeared persons have been found, because persons who were granted interim measures in the context of the urgent action are still under threat.

Chapter X
Communication procedure under article 31 of the Convention and follow-up to Views

88. Over the reporting period, the Committee did not receive any new individual complaints submitted under article 31 of the Convention.

89. Pursuant to rule 79 of the rules of procedure of the Committee, the Committee gave follow-up to the Views adopted on communication No. 1/2013 (*Trusta v. Argentina*) at its tenth session. The Committee noted that, at the time of its twelfth session, the State party still had not submitted its follow-up report and that, according to the information available in the context of the follow-up procedure, no measures had been taken to implement the Views. Stressing that such a failure perpetuated and worsened the violation of the authors' rights, the Committee decided to reiterate its recommendations, inviting the State party to submit the requested follow-up information within two months of the transmittal of the follow-up note verbale, and decided to examine the submitted information at its thirteenth session.

Chapter XI
Visits under article 33 of the Convention

90. The Committee recalled the previous exchange of correspondence with Mexico, which started in May 2013, regarding the possibility of visiting the State party under article 33 of the Convention.

91. The Committee noted that it had sent formal requests, dated 6 January 2014, 31 March 2014 and 17 March 2016, to visit the State party, and had requested a reply by 1 July 2016. It noted with serious concern that, to date, no reply had been received to date to its last request in the framework of article 33 of the Convention.

92. The Committee lamented the lack of a reply from the State party to its reiterated requests for a visit in the framework of article 33 (1) of the Convention. It noted that article 33 (2) of the Convention stipulates that the State party should answer the Committee within a reasonable time. The Committee took note of the lack of compliance by Mexico with the above-mentioned provision of the Convention.

93. The Committee remained seized of the situation in the State party and invited United Nations agencies and programmes, regional and intergovernmental institutions, national human rights institutions, non-governmental organizations and families of victims of enforced disappearance to continue to provide the Committee with information on alleged violations of the Convention by the State party, with a view to preparing a visit to Mexico.

94. On 17 March 2017 the Committee decided to reiterate in writing its request to visit Mexico in the framework of article 33 (1) of the Convention.

Chapter XII
Implementation of article 27 of the Convention

95. The first session of the Conference of the States Parties to the Convention was held at the United Nations Office at Geneva on 19 December 2016.

96. The session was convened in accordance with article 27 of the Convention, which reads as follows:

> A Conference of the States Parties will take place at the earliest four years and at the latest six years following the entry into force of this Convention to evaluate the functioning of the Committee and to decide, in accordance with the procedure described in article 44, paragraph 2, whether it is appropriate to transfer to another body — without excluding any possibility — the monitoring of this Convention, in accordance with the functions defined in articles 28 to 36.

97. The Conference held one meeting (see CED/CSP/SR.1).

98. The Conference examined the functioning of the Committee and recognized that the Committee efficiently monitored the implementation of the Convention, in accordance with the functions defined in articles 28 to 36 of the Convention.

99. The Conference adopted by consensus the following decision:

> Decision 1: The Conference of the States Parties to the International Convention for the Protection of All Persons from Enforced Disappearance decides that the Committee on Enforced Disappearances continue to monitor the International Convention for the Protection of All Persons from Enforced Disappearance in accordance with the functions defined in articles 28 to 36.

100. The Conference adopted the report on its first session (CED/CSP/2016/4).

Annex I

Membership of the Committee on Enforced Disappearances and terms of office as at 17 March 2017

Name of member	*State party*	*Term of office expires*
Mohammed **al-Obaidi**	Iraq	30 June 2017
Santiago **Corcuera Cabezut**	Mexico	30 June 2017
Emmanuel **Decaux**	France	30 June 2019
Maria Clara **Galvis Patiño**	Colombia	30 June 2019
Daniel **Figallo Rivadeneyra**	Peru	30 June 2019
Luciano **Hazan**	Argentina	30 June 2017
Rainer **Huhle**	Germany	30 June 2019
Suela **Janina**	Albania	30 June 2019
Juan José **López Ortega**	Spain	30 June 2017
Kimio **Yakushiji**	Japan	30 June 2017

Annex II

List of documents before the Committee at its eleventh and twelfth sessions

CED/CSP/SR.1	Summary record of the first session of the Conference of the States Parties to the International Convention for the Protection of All Persons from Enforced Disappearance
CED/CSP/2016/4	Report of the Conference of States Parties to the International Convention for the Protection of All Persons from Enforced Disappearance on its first session
CED/C/11/1	Annotated provisional agenda of the eleventh session
CED/C/11/2	Report on follow-up to concluding observations of the Committee on Enforced Disappearances
CED/C/12/1	Annotated provisional agenda of the twelfth session
CED/C/BIH/1	Report submitted by Bosnia and Herzegovina
CED/C/BIH/Q/1	List of issues in relation to the report submitted by Bosnia and Herzegovina
CED/C/BIH/Q/1/Add.1	Replies to the list of issues in relation to the report submitted by Bosnia and Herzegovina
CED/C/BIH/CO/1	Concluding observations on the report submitted by Bosnia and Herzegovina
CED/C/COL/1	Report submitted by Colombia
CED/C/COL/Q/1	List of issues in relation to the report submitted by Colombia
CED/C/COL/Q/1/Add.1	Replies to the list of issues in relation to the report submitted by Colombia
CED/C/COL/CO/1	Concluding observations on the report submitted by Colombia
CED/C/CUB/1	Report submitted by Cuba
CED/C/CUB/Q/1	List of issues in relation to the report submitted by Cuba
CED/C/CUB/Q/1/Add.1	Replies to the list of issues in relation to the report submitted by Cuba
CED/C/CUB/CO/1	Concluding observations on the report submitted by Cuba
CED/C/ECU/1	Report submitted by Ecuador
CED/C/ECU/Q/1	List of issues in relation to the report submitted by Ecuador
CED/C/ECU/Q/1/Add.1	Replies to the list of issues in relation to the report submitted by Ecuador
CED/C/ECU/CO/1	Concluding observations on the report submitted by Ecuador
CED/C/SEN/1	Report submitted by Senegal
CED/C/SEN/Q/1	List of issues in relation to the report submitted by Senegal
CED/C/SEN/Q/1/Add.1	Replies to the list of issues on the report submitted by Senegal
CED/C/SEN/CO/1	Concluding observations on the report submitted by Senegal
CED/C/1	Rules of procedure

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